

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.104 pertaining to semiannual) AMENDMENT
assessment for banks)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On April 4, 2013, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on March 22, 2013, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.59.104 SEMIANNUAL ASSESSMENT (1) Based upon the following schedule, and upon calculation of the semiannual value for the respective bank, the value must be multiplied by the factor of 1.50 to determine the dollar fee assessment, rounded to the next highest dollar, due the Division of Banking and Financial Institutions for the semiannual period.

<u>Total assets</u> <u>(Million)</u>	<u>Base</u>	<u>Plus rate/</u> <u>Million</u>	<u>Over</u> <u>(Million)</u>
0-1	0	.00085	0
1-10	850	.000105	1
10-50	1,795	.000085	10
50-100	5,195	.00005	50
over 100	7,695	.00003	100

(2) For the period ~~April 27, 2012~~ [effective date of this amendment] through September 30, 201~~2~~3, the assessment fee must be multiplied by a factor of .50. This section will sunset October 1, 201~~2~~3.

AUTH: 32-1-213, 32-1-218, MCA
IMP: 32-1-213, 32-1-218, MCA

STATEMENT OF REASONABLE NECESSITY: Last year, the department reviewed its expected revenues and expenditures and determined that a one-time reduction in the bank assessments was necessary to refund to the banks an excess balance in the special revenue account. The excess balance was due to a steady growth in the size and number of institutions and individuals licensed or supervised by the Division of Banking and Financial Institutions. This growth, coupled with conservative management and sound fiscal policies in the department, resulted in an increasing special revenue fund balance. In particular, the semiannual assessments paid by state-chartered banks exceeded expenses for bank supervision. In order to refund the excess funds to the state-chartered banks, the department determined that a one-time reduction in the semiannual assessment was necessary. So in April of 2012, the department reduced the bank assessment for the period ending in June 2012 by 50%.

This one-time reduction in bank assessments reduced the revenues by approximately 50% as expected. It was estimated that semiannual assessments paid by the 64 state-chartered banks for the June 2012 assessment without the assessment reduction would have been \$1,500,000. The bank assessment reduction reduced the amount collected to an estimated \$750,000 for the assessment period ending June 30, 2012. The final numbers are not in yet, so an estimate is being used in this rulemaking.

At the time the prior reduction in the bank assessment was proposed, the department stated that it expected a significant change in the number of state-chartered banks in 2012, and planned to review the assessment rates after the impact of the change was known. As expected, Montana saw a significant contraction in the number of state-chartered banks in 2012 from 64 to 57. The department expects to see a further drop in the number of state-chartered banks in 2013. At this time, the extent of the further reduction in the number of state-chartered banks is unknown. The department will propose a permanent downward revision in the bank assessments after it becomes reasonably certain that the number of state-chartered banks has reached a relatively stable number.

The intent of this amendment is to reduce the assessments that the department will receive in July 2013 from approximately \$1,500,000 to approximately \$750,000. Because this rule revision is intended to be temporary, the department has chosen to have it sunset on October 1, 2013, which will make the amendment effective only for the June 2013 assessment, not for the December 2013 assessment.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., April 1, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written

comments to the person listed in 4 above at the above address no later than 5:00 p.m., March 28, 2013.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be six persons based on the 57 existing state-chartered banks.

7. An electronic copy of this Proposal Notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp>x. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name and mailing address and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State February 19, 2013.